

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOEL RUIZ, on behalf of himself and)	Case No. 07-5739 SC
all others similarly situated,)	
	ORDER DENYING
Plaintiffs,)	PLAINTIFF'S
	ADMINISTRATIVE MOTION
v.)	FOR LEAVE TO FILE
	PROPOSED FIRST
GAP, INC., and DOES 1-9 inclusive,)	AMENDED COMPLAINT
	<u>UNDER SEAL</u>
Defendants.)	
_____)	

I. INTRODUCTION

This action arises out of the theft from a Gap vendor of two laptop computers that contained the personal information, including social security numbers, of approximately 800,000 Gap job applicants. The information was not encrypted and was therefore easily accessible.¹ Plaintiff Ruiz was one of the 800,000 applicants and, in reaction to the theft of the laptops, filed the present class action. Plaintiff's original Complaint names Gap as the Defendant. Docket No. 1. Plaintiff has since filed a Motion for Leave to File First Amended Complaint. Docket No. 77. Among other changes, the First Amended Complaint ("FAC")

¹ For a more detailed factual background, see this Court's Order Granting in Part and Denying in Part Defendant's Motion for Judgment on the Pleadings. Docket No. 46.

1 names the Gap vendor as an additional Defendant. Id. Defendant,
2 pursuant to the parties' Stipulated Confidentiality Order, has
3 designated the identity of the vendor as "Confidential -
4 Attorneys' Eyes Only." See Pl.'s Admin. Mot. for Leave to File
5 Proposed FAC Under Seal ("Admin. Mot."), Docket No. 76, at 1.
6 Because of this designation, Plaintiff was forced to file the
7 Administrative Motion. For the following reasons, Plaintiff's
8 Administrative Motion is DENIED.

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10 **II. DISCUSSION**

11 Defendant argues that the identity of its vendor must remain
12 confidential because "if the thief who stole the laptop were to
13 learn that personal data was contained on the laptop -- which
14 could happen if the vendor's name becomes public -- then such
15 disclosure would operate to significantly increase the possibility
16 that actual identity theft would occur." Punzalan Decl. in
17 Support of Admin. Mot., Ex. 2, Sep. 30, 2008, Letter from Gap's
18 Counsel.

19 "A party asserting good cause bears the burden, for each
20 particular document it seeks to protect, of showing that specific
21 prejudice or harm will result if no protective order is granted."
22 Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1130 (9th
23 Cir. 2003). In the present case, although the Stipulated
24 Protective Order has already been entered by this Court, see
25 Docket No. 55, Gap has nonetheless failed to carry its burden in
26 demonstrating that inclusion of the identity of Gap's vendor in
27 Plaintiff's FAC will result in the harm Gap claims. This is

1 especially true given that the theft of the laptops occurred more
2 than one year ago in Chicago, Illinois, and in light of the
3 "strong presumption in favor of access to court records." Foltz,
4 331 F.3d at 1135.

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6 **III. CONCLUSION**

7 Plaintiff's Administrative Motion is DENIED and Plaintiff
8 may, in connection with the Motion for Leave to Amend, file a
9 proposed FAC in accordance with normal filing procedures.

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12 IT IS SO ORDERED.

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14 Dated: December 3, 2008



15 UNITED STATES DISTRICT JUDGE
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